

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re	§	Chapter 11
	§	
SEARS HOLDINGS CORPORATION,	§	
<i>et al.,</i>	§	Case No. 18-23538 (RDD)
	§	
Debtors.	§	
	§	

MOTION FOR RELIEF FROM AUTOMATIC STAY

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, YOLANDA SHELTON, Movant in the above-captioned matter, and moves this Court for an Order Granting Relief from Automatic Stay. In support thereof, Movant shows the Court at follows:

1. There currently exists a Texas State Court legal proceeding, Cause No. B-18-10-1594-CV; Laveta Shelton v. Ricky Williams and Sears, Roebuck and Co., now pending in the 161st Judicial District, Ector County, Texas. Movant is Plaintiff in the aforementioned state court action.

2. On June 23, 2020, Movant, Laveta Shelton, completed a PI Claimant Inquiry as required by this Court's order dated March, 1, 2019. Doc ECF 2720. *See* Exhibit 1. This inquiry was confirmed as received and Movant. *See* Exhibit 2. As of filing this motion, Debtor has not provided to Movant a proposed Stay Stipulation.

3. The underlying cases involves a personal injury case that occurred that on or about January 27, 2017, Defendant Ricky Williams was driving a vehicle within the course and scope of his employment for Sears, Roebuck and Co. Plaintiff Laveta Shelton was a passenger in a vehicle that was stopped at a Y Intersection at the 1700 block of the West Service Road of the 1700 block of N. Loop 250 in Midland, TX when Defendant Ricky Williams was following too closely and

rear ended the vehicle that Plaintiff Shelton was in.

4. Movant believes that Debtor Sears Holding Corporation, Inc., Defendant in the state court action referred to herein, carries a policy or policies of insurance which would provide coverage for its liability, if any, in connection with the damages sustained by Movant. Movant seeks to modify the automatic stay for the limited purpose of continuing suit against debtor to adjudicate Debtor's liability in connection with the injuries and damages sustained by Movant.

5. Movant, as a condition of the requested modification, agrees to limit the extent of Movant's recovery efforts against Debtor to the funds available under any and all insurance policies which may provide coverage for Respondent's adjudicated liability, if any.

6. By this Motion, Movant seeks authority from this Court, to the extent it may be necessary to proceed with the state court litigation to judgment. Movant also seeks authority, to the extent it may be necessary, to execute, levy, and collect upon such judgment as may be obtained by Movant in the state court action from Debtor's Insurance carrier or carriers, only.

7. Movant alleges that the Court should lift the automatic stay to permit the continuation of the State Court suit since no great prejudice to either the debtor or the bankruptcy estate would result from the continuance of the civil action. Additionally, the hardship to Movant caused by the continuation of the stay considerably outweighs the hardship caused to the Debtor by modification of the stay.

8. Movant alleges that the imposition of the automatic stay denies her the opportunity to litigate since further time delays will result on the aging of evidence and loss of witnesses.

9. Movant further alleges that cause exists to lift the automatic stay in order to continue with State Court litigation since a jury trial had been requested, discovery was pending, and all issues are based entirely on state law.

WHEREFORE, PREMISES CONSIDERED, Movant respectfully pray for an order modifying the Automatic Stay to permit Movant to continue to permit her to proceed to judgement in the State Court lawsuit styled and numbered Cause No. B-18-10-1594-CV; Laveta Shelton v. Ricky Williams and Sears, Roebuck and Co., now pending in the 161st Judicial District Court, Ector County, Texas and to execute, levy, and collect upon such judgment as be obtained by Movant in the State Court action to the extent of available policies of insurance which provide coverage in such matters, and for any and all other such relief to which the Court finds Movant justly entitled.

Respectfully submitted,

CHILDS BISHOP & WHITE P.C.

By: *Greta Braker*

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ATTORNEYS FOR PLAINTIFFS

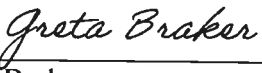
NOTICE OF OPPORTUNITY FOR HEARING

NO HEARING WILL BE CONDUCTED ON THIS MOTION FOR RELIEF UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FIFTEEN (15) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH REQUESTS FOR HEARING. IF NO RESPONSE IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. THE COURT RESERVES THE RIGHT TO SET ANY MATTER FOR HEARING.

CERTIFICATE OF CONFERENCE

I do hereby certify that I, Greta Braker, Attorney for Movant, emailed, Dominic Litz, Attorney for Sears Roebuck and Co. on the 17th day of September, 2020 and he indicated that he was:

- ☐ 1. in agreement with said motion and did not oppose the relief requested;
- ☐ 2. or was opposed to the motion and the relief requested;
- ☒ 3. or could not be reached for comment on this matter.



Greta Braker

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing has been served upon counsel of record to the following on the 8th day of January, 2021 via facsimile and the Court's CM/ECF e-filing system:

VIA FAX: (212) 310-8007:

Ray C. Schrock, P.C.
Jacqueline Marcus
Garrett A. Fail
Sunny Singh
Jessica Liou
Dominic Litz
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Domicic.litz@weil.com
(212) 310-8007 (fax)
(212) 310-8000

/s/ Greta Braker

Greta Braker

EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK**

-----X	
In re	: Chapter 11
SEARS HOLDINGS CORPORATION, et al.,	: Case No. 18-23538 (RDD)
Debtors.¹	: (Jointly Administered)
-----X	

PI CLAIMANT INQUIRY

Pursuant to the Order Approving Procedures for Modification of the Automatic Stay (the “Order”) [Doc. No. ____],² the below-referenced PI Claimant hereby submits an Inquiry:

1. Name of PI Claimant: Laveta Shelton.

2. Title, Court and Case Number of Prepetition Action: Laveta Shelton v. Ricky Williams and Sears, Roebuck and Co., 161st District Court for Ector Count, Texas, Case Number B-18-10-1594-CV.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816). The location of the Debtors’ corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

² Any capitalized terms used herein shall have the meaning given to them in the Order.

3. Brief Description of Prepetition Action (please attach a copy of the complaint or other legal document which states your claim, if one exists and has not already been provided to the Debtors or their representative): See attached petition (complaint)

4. Current Status of Prepetition Action: Stayed per the bankruptcy order.

5. Amount of the claim asserted: monetary relief more than \$1,000,000

6. Name of any applicable insurer, number of any known applicable insurance policy, and/or any applicable claim number (if none are known, state "unknown"):
Insurer: ACE American Insurance Company, policy number: ISAH09044188.

7. Any co-defendants or other parties in the Prepetition Action: Yes

8. Nature of claims (including cross-claims and/or third-party claims) asserted against any co-defendants or other parties listed in item 7, above: No.

3. Brief Description of Prepetition Action (please attach a copy of the complaint or other legal document which states your claim, if one exists and has not already been provided to the Debtors or their representative): See attached petition (complaint)

4. Current Status of Prepetition Action: Stayed per the bankruptcy order.

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7. Any co-defendants or other parties in the Prepetition Action: Yes

8. Nature of claims (including cross-claims and/or third-party claims) asserted against any co-defendants or other parties listed in item 7, above: No.

This inquiry must be submitted to:

Project.Blue.Auto.Stay@weil.com
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153

June 23, 2020
Dated: _____

Greta Braker for Laveta Shelton

PI Claimant

From: [Greta Braker](#)
To: Project.Blue.Auto.Stay@weil.com
Cc: [Jessica Prieto](#)
Subject: PI Claimant Inquiry
Date: Tuesday, June 23, 2020 4:24:46 PM
Attachments: [Inquiry Filled Out.pdf](#)
[FILEMARKEDPetition - Motor Vehicle Accident.pdf](#)

To Whom It May Concern:

Attached please find PI Claimant Inquiry with a copy of the petition. If you need anything further please let me know. Thank you.

Thanks,

Greta Braker
Attorney at Law
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Facsimile: (432) 337-5465
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EXHIBIT 2

From: [Litz, Dominic](#)
To: [Jessica Prieto](#)
Cc: [Peshko, Olga](#); [DiDonato, Phil](#); [Project Blue Auto Stay](#); [Greta Braker](#); afritsche@thompsoncoe.com; bmosowitz@thompsoncoe.com
Subject: Case No. 18-23538 (RDD) - Sears Holding Corp.
Date: Wednesday, January 8, 2020 3:11:38 PM
Attachments: [image001.jpg](#)
[2720 - Stay Procedures Order.pdf](#)

Jessica –

We are in receipt of your correspondence and will reach out to the Company to determine the availability of insurance. We are hopeful we can resolve this without a motion, however, as an FYI please note that the Court has entered an order establishing procedures for claimants requesting relief from the automatic stay to pursue insurance proceeds (ECF No. 2720) (attached here).

Feel free to reach out in the meantime with any questions or if you would like to discuss.

Respectfully,
Dominic



Dominic Litz

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